IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.511 OF 2005

IN

SUIT NO. 3284 OF 2004

Sanjeev C. Chavan. .. Plaintiff.

vs.

Subodh N. Pathak .. Defendant .

Mr. Amit Pai for the plaintiff.

Mr. R.M. Joshi for defendant.

CORAM : S.U.KAMDAR, J.

DATE : 18th January,2006.

P.C.

. The present suit is on dishonoured cheque of Rs. 91,397/- as due and payable by the plaintiff to the defendant towards services rendered by him in the Coaching Classes run by the defendant. Under the arrangement it was agreed that the plaintiff will leave the classes and towards the consideration of the gratuity and other dues Rs. 2,50,000/- will be paid. The plaintiff has received the aforesaid amount but a cheque of Rs.91,397/- paid towards the said payment has been dishonoured. The learned counsel appearing for the defendants states that he

had dishonoured the cheque because the plaintiff is committing breach of the agreement entered into between the parties and he is continuing teaching in the same vicinity and, therefore, he is not entitled to this amount. I do not find any substance whatsoever in the aforesaid contention. If there is a breach of any such agreement, it is open to the defendant to approach the appropriate Court for necessary reliefs but on such ground the dues which are admittedly payable to the plaintiff cannot be withheld. In that light of the matter, I pass the following order.

2. The defendant to deposit in this Court a sum of Rs. 90,000/- within a period of four weeks failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks

thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.